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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,700	08/31/2001	Mikio Nagasawa	H-1007	8877

24956 7590 12/20/2005

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EXAMINER

SMITH, TRACI L

ART UNIT PAPER NUMBER

3629

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/942,700

Applicant(s)

NAGASAWA, MIKIO

Examiner

Traci L. Smith

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

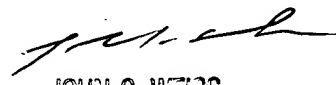
The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____


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TECHNOLOGY CENTER 3600

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____

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DETAILED ACTION

1. This action is in response to papers filed on 11/18/2005.
2. Claims 1-10 are pending.
3. Claims 1-10 are rejected.

Response to Arguments

4. Applicant's arguments filed November 18, 2005 have been fully considered but they are not persuasive.

5. As to applicants arguments regarding the rejections under 35 USC 112 1st

Paragraph:

- a. Claims 1-Applicant states that the claim no longer claims "estimated" however, the claim still states "simulating" which is the first aspect of the rejection regarding this claim, how does one simulate performance and what is used for the simulation. The applicants statements regarding the estimating portion are correct but the amendment fails to overcome the rejection with respect to the simulation limitation of the claim.
- b. Claim 3- Applicant again is arguing that all limitations of the rejection have been removed. The examiner points to lines 8 and 11 of claim 3 in which estimating is still stated without teaching what is being used to do the estimation.
- c. Claim 4-Applicant states the claim no longer recites recalculation. The examiner agrees with this but also notes that there is still the calculation formula (Ln. 9)that is not taught nor a teaching for what is used for calculations.

6. As to applicants arguments regarding the rejections under 35 USC 102 applicants arguments were not persuasive.
7. Applicant argues that reference fails to teach "resource performance data" the examiner notes the reference teaches using credit to determine risk, this means they are using credit to determine risk of a resource, this inherently includes how the resource has historically performed. A broker is not going to recommend a resource without knowing historically how something has performed as well as brokers use historical data to predict how a resource will perform in the future. Therefore the limitation of "including resource data" does not distinguish from the prior art.
8. As to applicants argument that the limitation of "based on said allocation" of how what information is determined to output to a ticket. This added limitation at the end of the claim is merely restating what had already been in the claim of "thereby allocating one or more combinations of said resources that satisfy, in the aggregate, said request specifications". With this statement the applicants themselves are implies the resource data is allocated, therefore if they are outputting resource information to the ticket it would have to be the resource information that had been allocated to that user.
9. In view of the above reasons the rejection stands as previously stated in the early rejection and is final.

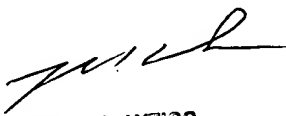
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Smith whose telephone number is 572-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TLS


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